

117TH CONGRESS  
1ST SESSION

# S. 1975

To protect a person's ability to determine whether to continue or end a pregnancy, and to protect a health care provider's ability to provide abortion services.

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## IN THE SENATE OF THE UNITED STATES

JUNE 8, 2021

Mr. BLUMENTHAL (for himself, Ms. BALDWIN, Mrs. SHAHEEN, Mr. MARKEY, Mr. KING, Ms. WARREN, Mr. BROWN, Ms. CORTEZ MASTO, Mr. REED, Mr. SCHUMER, Ms. SMITH, Mr. SCHATZ, Mrs. MURRAY, Mr. MENENDEZ, Ms. HASSAN, Mr. WYDEN, Ms. KLOBUCHAR, Mr. MERKLEY, Mr. BOOKER, Ms. STABENOW, Ms. SINEMA, Mr. CARDIN, Mr. MURPHY, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Ms. HIRONO, Mrs. GILLIBRAND, Ms. DUCKWORTH, Ms. CANTWELL, Ms. ROSEN, Mr. VAN HOLLEN, Mr. SANDERS, Mr. CARPER, Mr. BENNET, Mr. WARNER, Mr. PADILLA, Mr. COONS, Mr. DURBIN, Mr. KAINES, Mr. HEINRICH, Mr. LEAHY, Mr. TESTER, Mr. HICKENLOOPER, Mr. PETERS, Mr. LUJÁN, Mr. KELLY, Mr. OSBOFF, and Mr. WARNOCK) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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# A BILL

To protect a person's ability to determine whether to continue or end a pregnancy, and to protect a health care provider's ability to provide abortion services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1     **SECTION 1. SHORT TITLE.**

2         This Act may be cited as the “Women’s Health Pro-  
3         tection Act of 2021”.

4     **SEC. 2. FINDINGS AND PURPOSE.**

5         (a) FINDINGS.—Congress finds the following:

6             (1) Abortion services are essential health care  
7         and access to those services is central to people’s  
8         ability to participate equally in the economic and so-  
9         cial life of the United States. Abortion access allows  
10        people who are pregnant to make their own decisions  
11        about their pregnancies, their families, and their  
12        lives.

13            (2) Since 1973, the Supreme Court repeatedly  
14        has recognized the constitutional right to terminate  
15        a pregnancy before fetal viability, and to terminate  
16        a pregnancy after fetal viability where it is nec-  
17        essary, in the good-faith medical judgment of the  
18        treating health care professional, for the preserva-  
19        tion of the life or health of the person who is preg-  
20        nant.

21            (3) Nonetheless, access to abortion services has  
22        been obstructed across the United States in various  
23        ways, including blockades of health care facilities  
24        and associated violence, prohibitions of, and restric-  
25        tions on, insurance coverage; parental involvement  
26        laws (notification and consent); restrictions that

1       shame and stigmatize people seeking abortion serv-  
2       ices; and medically unnecessary regulations that nei-  
3       ther confer any health benefit nor further the safety  
4       of abortion services, but which harm people by de-  
5       laying, complicating access to, and reducing the  
6       availability of, abortion services.

7                 (4) Reproductive Justice requires every indi-  
8       vidual to have the right to make their own decisions  
9       about having children regardless of their cir-  
10      cumstances and without interference and discrimina-  
11      tion. Reproductive Justice is a human right that can  
12      and will be achieved when all people, regardless of  
13      actual or perceived race, color, national origin, immi-  
14      gration status, sex (including gender identity, sex  
15      stereotyping, or sexual orientation), age, or disability  
16      status have the economic, social, and political power  
17      and resources to define and make decisions about  
18      their bodies, health, sexuality, families, and commu-  
19      nities in all areas of their lives, with dignity and  
20      self-determination.

21                 (5) Reproductive Justice seeks to address re-  
22      strictions on reproductive health, including abortion,  
23      that perpetuate systems of oppression, lack of bodily  
24      autonomy, white supremacy, and anti-Black racism.  
25      This violent legacy has manifested in policies includ-

1       ing enslavement, rape, and experimentation on Black  
2       women; forced sterilizations; medical experimen-  
3       tation on low-income women's reproductive systems;  
4       and the forcible removal of Indigenous children. Ac-  
5       cess to equitable reproductive health care, including  
6       abortion services, has always been deficient in the  
7       United States for Black, Indigenous, and other Peo-  
8       ple of Color (BIPOC) and their families.

9                     (6) The legacy of restrictions on reproductive  
10          health, rights, and justice is not a dated vestige of  
11          a dark history. Presently, the harms of abortion-spe-  
12          cific restrictions fall especially heavily on people with  
13          low incomes, BIPOC, immigrants, young people,  
14          people with disabilities, and those living in rural and  
15          other medically underserved areas. Abortion-specific  
16          restrictions are even more compounded by the ongo-  
17          ing criminalization of people who are pregnant, in-  
18          cluding those who are incarcerated, living with HIV,  
19          or with substance-use disorders. These communities  
20          already experience health disparities due to social,  
21          political, and environmental inequities, and restric-  
22          tions on abortion services exacerbate these harms.  
23          Removing medically unjustified restrictions on abor-  
24          tion services would constitute one important step on  
25          the path toward realizing Reproductive Justice by

1 ensuring that the full range of reproductive health  
2 care is accessible to all who need it.

3 (7) Abortion-specific restrictions are a tool of  
4 gender oppression, as they target health care serv-  
5 ices that are used primarily by women. These pater-  
6 nalistic restrictions rely on and reinforce harmful  
7 stereotypes about gender roles, women's decision-  
8 making, and women's need for protection instead of  
9 support, undermining their ability to control their  
10 own lives and well-being. These restrictions harm the  
11 basic autonomy, dignity, and equality of women, and  
12 their ability to participate in the social and economic  
13 life of the Nation.

14 (8) The terms "woman" and "women" are used  
15 in this bill to reflect the identity of the majority of  
16 people targeted and affected by restrictions on abor-  
17 tion services, and to address squarely the targeted  
18 restrictions on abortion, which are rooted in misog-  
19 iny. However, access to abortion services is critical  
20 to the health of every person capable of becoming  
21 pregnant. This Act is intended to protect all people  
22 with the capacity for pregnancy—cisgender women,  
23 transgender men, non-binary individuals, those who  
24 identify with a different gender, and others—who

1       are unjustly harmed by restrictions on abortion serv-  
2       ices.

3                 (9) Since 2011, States and local governments  
4       have passed nearly 500 restrictions singling out  
5       health care providers who offer abortion services,  
6       interfering with their ability to provide those services  
7       and the patients' ability to obtain those services.

8                 (10) Many State and local governments have  
9       imposed restrictions on the provision of abortion  
10      services that are neither evidence-based nor gen-  
11      erally applicable to the medical profession or to  
12      other medically comparable outpatient gynecological  
13      procedures, such as endometrial ablations, dilation  
14      and curettage for reasons other than abortion,  
15      hysteroscopies, loop electrosurgical excision proce-  
16      dures, or other analogous non-gynecological proce-  
17      dures performed in similar outpatient settings in-  
18      cluding vasectomy, sigmoidoscopy, and colonoscopy.

19                 (11) Abortion is essential health care and one  
20      of the safest medical procedures in the United  
21      States. An independent, comprehensive review of the  
22      state of science on the safety and quality of abortion  
23      services, published by the National Academies of  
24      Sciences, Engineering, and Medicine in 2018, found  
25      that abortion in the United States is safe and effec-

1 tive and that the biggest threats to the quality of  
2 abortion services in the United States are State reg-  
3 uulations that create barriers to care. These abortion-  
4 specific restrictions conflict with medical standards  
5 and are not supported by the recommendations and  
6 guidelines issued by leading reproductive health care  
7 professional organizations including the American  
8 College of Obstetricians and Gynecologists, the Soci-  
9 ety of Family Planning, the National Abortion Fed-  
10 eration, the World Health Organization, and others.

11 (12) Many abortion-specific restrictions do not  
12 confer any health or safety benefits. Instead, these  
13 restrictions have the purpose and effect of unduly  
14 burdening people's personal and private medical de-  
15 cisions to end their pregnancies by making access to  
16 abortion services more difficult, invasive, and costly,  
17 often forcing people to travel significant distances  
18 and make multiple unnecessary visits to the pro-  
19 provider, and in some cases, foreclosing the option alto-  
20 gether. For example, a 2018 report from the Univer-  
21 sity of California San Francisco's Advancing New  
22 Standards in Reproductive Health research group  
23 found that in 27 cities across the United States,  
24 people have to travel more than 100 miles in any di-  
25 rection to reach an abortion provider.

1                         (13) An overwhelming majority of abortions in  
2                         the United States are provided in clinics, not hos-  
3                         pitals, but the large majority of counties throughout  
4                         the United States have no clinics that provide abor-  
5                         tion.

6                         (14) These restrictions additionally harm peo-  
7                         ple's health by reducing access not only to abortion  
8                         services but also to other essential health care serv-  
9                         ices offered by many of the providers targeted by the  
10                         restrictions, including—

11                         (A) screenings and preventive services, in-  
12                         cluding contraceptive services;

13                         (B) testing and treatment for sexually  
14                         transmitted infections;

15                         (C) LGBTQ health services; and

16                         (D) referrals for primary care, intimate  
17                         partner violence prevention, prenatal care and  
18                         adoption services.

19                         (15) The cumulative effect of these numerous  
20                         restrictions has been to severely limit the availability  
21                         of abortion services in some areas, creating a patch-  
22                         work system where access to abortion services is  
23                         more available in some States than in others. A  
24                         2019 report from the Government Accountability Of-  
25                         fice examining State Medicaid compliance with abor-

1       tion coverage requirements analyzed seven key chal-  
2       lenges (identified both by health care providers and  
3       research literature) and their effect on abortion ac-  
4       cess, and found that access to abortion services var-  
5       ied across the States and even within a State.

6                     (16) International human rights law recognizes  
7       that access to abortion is intrinsically linked to the  
8       rights to life, health, equality and non-discrimina-  
9       tion, privacy, and freedom from ill-treatment. United  
10      Nations (UN) human rights treaty monitoring bod-  
11      ies have found that legal abortion services, like other  
12      reproductive health care services, must be available,  
13      accessible, affordable, acceptable, and of good qual-  
14      ity. UN human rights treaty bodies have likewise  
15      condemned medically unnecessary barriers to abor-  
16      tion services, including mandatory waiting periods,  
17      biased counseling requirements, and third-party au-  
18      thorization requirements.

19                     (17) Core human rights treaties ratified by the  
20      United States protect access to abortion. For exam-  
21      ple, in 2018, the UN Human Rights Committee,  
22      which oversees implementation of the ICCPR, made  
23      clear that the right to life, enshrined in Article 6 of  
24      the ICCPR, at a minimum requires governments to  
25      provide safe, legal, and effective access to abortion

1 where a person's life and health is at risk, or when  
2 carrying a pregnancy to term would cause substantial  
3 pain or suffering. The Committee stated that  
4 governments must not impose restrictions on abortion  
5 which subject women and girls to physical or  
6 mental pain or suffering, discriminate against them,  
7 arbitrarily interfere with their privacy, or place them  
8 at risk of undertaking unsafe abortions. Furthermore,  
9 the Committee stated that governments should  
10 remove existing barriers that deny effective access to  
11 safe and legal abortion, refrain from introducing  
12 new barriers to abortion, and prevent the stigmatization  
13 of those seeking abortion.

14 (18) UN independent human rights experts  
15 have expressed particular concern about barriers to  
16 abortion services in the United States. For example,  
17 at the conclusion of his 2017 visit to the United  
18 States, the UN Special Rapporteur on extreme poverty  
19 and human rights noted concern that low-income  
20 women face legal and practical obstacles to exercising  
21 their constitutional right to access abortion services,  
22 trapping many women in cycles of poverty.  
23 Similarly, in May 2020, the UN Working Group on  
24 discrimination against women and girls, along with  
25 other human rights experts, expressed concern that

1 some states had manipulated the COVID–19 crisis  
2 to restrict access to abortion, which the experts rec-  
3ognized as “the latest example illustrating a pattern  
4 of restrictions and retrogressions in access to legal  
5 abortion care across the country” and reminded  
6 U.S. authorities that abortion care constitutes essen-  
7 tial health care that must remain available during  
8 and after the pandemic. They noted that barriers to  
9 abortion access exacerbate systemic inequalities and  
10 cause particular harm to marginalized communities,  
11 including low-income people, people of color, immi-  
12 grants, people with disabilities, and LGBTQ people.

13 (19) Abortion-specific restrictions affect the  
14 cost and availability of abortion services, and the  
15 settings in which abortion services are delivered.  
16 People travel across State lines and otherwise en-  
17 gage in interstate commerce to access this essential  
18 medical care, and more would be forced to do so ab-  
19 sent this Act. Likewise, health care providers travel  
20 across State lines and otherwise engage in interstate  
21 commerce in order to provide abortion services to  
22 patients, and more would be forced to do so absent  
23 this Act.

24 (20) Health care providers engage in a form of  
25 economic and commercial activity when they provide

1       abortion services, and there is an interstate market  
2       for abortion services.

3                     (21) Abortion restrictions substantially affect  
4       interstate commerce in numerous ways. For exam-  
5       ple, to provide abortion services, health care pro-  
6       viders engage in interstate commerce to purchase  
7       medicine, medical equipment, and other necessary  
8       goods and services. To provide and assist others in  
9       providing abortion services, health care providers en-  
10      gage in interstate commerce to obtain and provide  
11      training. To provide abortion services, health care  
12      providers employ and obtain commercial services  
13      from doctors, nurses, and other personnel who en-  
14      gage in interstate commerce and travel across State  
15      lines.

16                    (22) It is difficult and time and resource-con-  
17       suming for clinics to challenge State laws that bur-  
18       den or impede abortion services. Litigation that  
19       blocks one abortion restriction may not prevent a  
20       State from adopting other similarly burdensome  
21       abortion restrictions or using different methods to  
22       burden or impede abortion services. There is a his-  
23       tory and pattern of States passing successive and  
24       different laws that unduly burden abortion services.

1                         (23) When a health care provider ceases pro-  
2 viding abortion services as a result of burdensome  
3 and medically unnecessary regulations, it is often  
4 difficult or impossible for that health care provider  
5 to recommence providing those abortion services,  
6 and difficult or impossible for other health care pro-  
7 viders to provide abortion services that restore or re-  
8 place the ceased abortion services.

9                         (24) Health care providers are subject to license  
10 laws in various jurisdictions, which are not affected  
11 by this Act except as provided in this Act.

12                         (25) Congress has the authority to enact this  
13 Act to protect abortion services pursuant to—

14                             (A) its powers under the commerce clause  
15 of section 8 of article I of the Constitution of  
16 the United States;

17                             (B) its powers under section 5 of the Four-  
18 teenth Amendment to the Constitution of the  
19 United States to enforce the provisions of sec-  
20 tion 1 of the Fourteenth Amendment; and

21                             (C) its powers under the necessary and  
22 proper clause of section 8 of Article I of the  
23 Constitution of the United States.

24                         (26) Congress has used its authority in the past  
25 to protect access to abortion services and health care

1 providers' ability to provide abortion services. In the  
2 early 1990s, protests and blockades at health care  
3 facilities where abortion services were provided, and  
4 associated violence, increased dramatically and  
5 reached crisis level, requiring Congressional action.  
6 Congress passed the Freedom of Access to Clinic  
7 Entrances Act (Public Law 103–259; 108 Stat. 694)  
8 to address that situation and protect physical access  
9 to abortion services.

10 (27) Congressional action is necessary to put an  
11 end to harmful restrictions, to federally protect ac-  
12 cess to abortion services for everyone regardless of  
13 where they live, and to protect the ability of health  
14 care providers to provide these services in a safe and  
15 accessible manner.

16 (b) PURPOSE.—It is the purpose of this Act—

17 (1) to permit health care providers to provide  
18 abortion services without limitations or requirements  
19 that single out the provision of abortion services for  
20 restrictions that are more burdensome than those re-  
21 strictions imposed on medically comparable proce-  
22 dures, do not significantly advance reproductive  
23 health or the safety of abortion services, and make  
24 abortion services more difficult to access;

1                   (2) to promote access to abortion services and  
2                   women's ability to participate equally in the eco-  
3                   nomic and social life of the United States; and

4                   (3) to invoke Congressional authority, including  
5                   the powers of Congress under the commerce clause  
6                   of section 8 of article I of the Constitution of the  
7                   United States, its powers under section 5 of the  
8                   Fourteenth Amendment to the Constitution of the  
9                   United States to enforce the provisions of section 1  
10                  of the Fourteenth Amendment, and its powers under  
11                  the necessary and proper clause of section 8 of arti-  
12                  cle I of the Constitution of the United States.

13 **SEC. 3. DEFINITIONS.**

14                  In this Act:

15                  (1) ABORTION SERVICES.—The term “abortion  
16                  services” means an abortion and any medical or  
17                  non-medical services related to and provided in con-  
18                  junction with an abortion (whether or not provided  
19                  at the same time or on the same day as the abor-  
20                  tion).

21                  (2) GOVERNMENT.—The term “government”  
22                  includes each branch, department, agency, instru-  
23                  mentality, and official (and other person acting  
24                  under color of law) of the United States or a State.

1                             (3) HEALTH CARE PROVIDER.—The term  
2        “health care provider” means any entity or individual (including any physician, certified nurse-midwife, nurse practitioner, and physician assistant)  
3        that—  
4

5                             (A) is engaged or seeks to engage in the  
6        delivery of health care services, including abortion  
7        services, and  
8

9                             (B) if required by law or regulation to be  
10      licensed or certified to engage in the delivery of  
11      such services—  
12

13                             (i) is so licensed or certified, or  
14                             (ii) would be so licensed or certified  
15        but for their past, present, or potential  
16        provision of abortion services permitted by  
17        section 4.

18                             (4) MEDICALLY COMPARABLE PROCEDURE.—  
19        The term “medically comparable procedures” means  
20        medical procedures that are similar in terms of  
21        health and safety risks to the patient, complexity, or  
22        the clinical setting that is indicated.

23                             (5) PREGNANCY.—The term “pregnancy” refers  
24        to the period of the human reproductive process beginning with the implantation of a fertilized egg.

1                     (6) STATE.—The term “State” includes the  
2                     District of Columbia, the Commonwealth of Puerto  
3                     Rico, and each territory and possession of the  
4                     United States, and any subdivision of any of the  
5                     foregoing.

6                     (7) VIABILITY.—The term “viability” means  
7                     the point in a pregnancy at which, in the good-faith  
8                     medical judgment of the treating health care pro-  
9                     vider, based on the particular facts of the case be-  
10                    fore the health care provider, there is a reasonable  
11                    likelihood of sustained fetal survival outside the  
12                    uterus with or without artificial support.

13 **SEC. 4. PERMITTED SERVICES.**

14                     (a) GENERAL RULE.—A health care provider has a  
15                     statutory right under this Act to provide abortion services,  
16                     and may provide abortion services, and that provider’s pa-  
17                     tient has a corresponding right to receive such services,  
18                     without any of the following limitations or requirements:

19                         (1) A requirement that a health care provider  
20                     perform specific tests or medical procedures in con-  
21                     nection with the provision of abortion services, un-  
22                     less generally required for the provision of medically  
23                     comparable procedures.

24                         (2) A requirement that the same health care  
25                     provider who provides abortion services also perform

1       specified tests, services, or procedures prior to or  
2       subsequent to the abortion.

3                 (3) A requirement that a health care provider  
4       offer or provide the patient seeking abortion services  
5       medically inaccurate information in advance of or  
6       during abortion services.

7                 (4) A limitation on a health care provider's abil-  
8       ity to prescribe or dispense drugs based on current  
9       evidence-based regimens or the provider's good-faith  
10      medical judgment, other than a limitation generally  
11      applicable to the medical profession.

12                 (5) A limitation on a health care provider's abil-  
13       ity to provide abortion services via telemedicine,  
14       other than a limitation generally applicable to the  
15       provision of medical services via telemedicine.

16                 (6) A requirement or limitation concerning the  
17       physical plant, equipment, staffing, or hospital  
18       transfer arrangements of facilities where abortion  
19       services are provided, or the credentials or hospital  
20       privileges or status of personnel at such facilities,  
21       that is not imposed on facilities or the personnel of  
22       facilities where medically comparable procedures are  
23       performed.

24                 (7) A requirement that, prior to obtaining an  
25       abortion, a patient make one or more medically un-

1       necessary in-person visits to the provider of abortion  
2       services or to any individual or entity that does not  
3       provide abortion services.

4                 (8) A prohibition on abortion at any point or  
5       points in time prior to fetal viability, including a  
6       prohibition or restriction on a particular abortion  
7       procedure.

8                 (9) A prohibition on abortion after fetal viabil-  
9       ity when, in the good-faith medical judgment of the  
10      treating health care provider, continuation of the  
11      pregnancy would pose a risk to the pregnant pa-  
12      tient's life or health.

13                 (10) A limitation on a health care provider's  
14       ability to provide immediate abortion services when  
15       that health care provider believes, based on the  
16       good-faith medical judgment of the provider, that  
17       delay would pose a risk to the patient's health.

18                 (11) A requirement that a patient seeking abor-  
19       tion services at any point or points in time prior to  
20       fetal viability disclose the patient's reason or reasons  
21       for seeking abortion services, or a limitation on the  
22       provision or obtaining of abortion services at any  
23       point or points in time prior to fetal viability based  
24       on any actual, perceived, or potential reason or rea-  
25       sons of the patient for obtaining abortion services,

1       regardless of whether the limitation is based on a  
2       health care provider's degree of actual or construc-  
3       tive knowledge of such reason or reasons.

4       (b) OTHER LIMITATIONS OR REQUIREMENTS.—A  
5       health care provider has a statutory right to provide abor-  
6       tion services, and may provide abortion services, and that  
7       provider's patient has a corresponding right to receive  
8       such services, without a limitation or requirement that—

9               (1) is the same as or similar to one or more of  
10          the limitations or requirements described in sub-  
11          section (a); or

12               (2) both—

13                       (A) expressly, effectively, implicitly, or as  
14          implemented singles out the provision of abor-  
15          tion services, health care providers who provide  
16          abortion services, or facilities in which abortion  
17          services are provided; and

18                       (B) impedes access to abortion services.

19       (c) FACTORS FOR CONSIDERATION.—Factors a court  
20       may consider in determining whether a limitation or re-  
21       quirement impedes access to abortion services for purposes  
22       of subsection (b)(2)(B) include the following:

23               (1) Whether the limitation or requirement, in a  
24       provider's good-faith medical judgment, interferes  
25       with a health care provider's ability to provide care

1 and render services, or poses a risk to the patient's  
2 health or safety.

3 (2) Whether the limitation or requirement is  
4 reasonably likely to delay or deter some patients in  
5 accessing abortion services.

6 (3) Whether the limitation or requirement is  
7 reasonably likely to directly or indirectly increase the  
8 cost of providing abortion services or the cost for ob-  
9 taining abortion services (including costs associated  
10 with travel, childcare, or time off work).

11 (4) Whether the limitation or requirement is  
12 reasonably likely to have the effect of necessitating  
13 a trip to the offices of a health care provider that  
14 would not otherwise be required.

15 (5) Whether the limitation or requirement is  
16 reasonably likely to result in a decrease in the avail-  
17 ability of abortion services in a given State or geo-  
18 graphic region.

19 (6) Whether the limitation or requirement im-  
20 poses penalties that are not imposed on other health  
21 care providers for comparable conduct or failure to  
22 act, or that are more severe than penalties imposed  
23 on other health care providers for comparable con-  
24 duct or failure to act.

1                         (7) The cumulative impact of the limitation or  
2                         requirement combined with other new or existing  
3                         limitations or requirements.

4                         (d) EXCEPTION.—To defend against a claim that a  
5                         limitation or requirement violates a health care provider's  
6                         or patient's statutory rights under subsection (b), a party  
7                         must establish, by clear and convincing evidence, that—

8                                 (1) the limitation or requirement significantly  
9                         advances the safety of abortion services or the health  
10                         of patients; and

11                                 (2) the safety of abortion services or the health  
12                         of patients cannot be advanced by a less restrictive  
13                         alternative measure or action.

14 **SEC. 5. APPLICABILITY AND PREEMPTION.**

15                         (a) IN GENERAL.—

16                                 (1) Except as stated under subsection (b), this  
17                         Act supersedes and applies to the law of the Federal  
18                         Government and each State government, and the im-  
19                         plementation of such law, whether statutory, com-  
20                         mon law, or otherwise, and whether adopted before  
21                         or after the date of enactment of this Act, and nei-  
22                         ther the Federal Government nor any State govern-  
23                         ment shall enact or enforce any law, rule, regulation,  
24                         standard, or other provision having the force and ef-  
25                         fect of law that conflicts with any provision of this

1       Act, notwithstanding any other provision of Federal  
2       law, including the Religious Freedom Restoration  
3       Act of 1993 (42 U.S.C. 2000bb et seq.).

4               (2) Federal statutory law adopted after the  
5       date of the enactment of this Act is subject to this  
6       Act unless such law explicitly excludes such applica-  
7       tion by reference to this Act.

8               (b) LIMITATIONS.—The provisions of this Act shall  
9       not supersede or apply to—

10               (1) laws regulating physical access to clinic en-  
11       trances;

12               (2) insurance or medical assistance coverage of  
13       abortion services;

14               (3) the procedure described in section  
15       1531(b)(1) of title 18, United States Code; or

16               (4) generally applicable State contract law.

17 **SEC. 6. EFFECTIVE DATE.**

18       This Act shall take effect immediately upon the date  
19       of enactment of this Act. This Act shall apply to all re-  
20       strictions on the provision of, or access to, abortion serv-  
21       ices whether the restrictions are enacted or imposed prior  
22       to or after the date of enactment of this Act, except as  
23       otherwise provided in this Act.

1   **SEC. 7. LIBERAL CONSTRUCTION.**

2       (a) LIBERAL CONSTRUCTION.—In interpreting the  
3   provisions of this Act, a court shall liberally construe such  
4   provisions to effectuate the purposes of the Act.

5       (b) RULE OF CONSTRUCTION.—Nothing in this Act  
6   shall be construed to authorize any government to inter-  
7   fere with a person's ability to terminate a pregnancy, to  
8   diminish or in any way negatively affect a person's con-  
9   stitutional right to terminate a pregnancy, or to displace  
10   any other remedy for violations of the constitutional right  
11   to terminate a pregnancy.

12   **SEC. 8. ENFORCEMENT.**

13       (a) ATTORNEY GENERAL.—The Attorney General  
14   may commence a civil action for prospective injunctive re-  
15   lief on behalf of the United States against any government  
16   official that is charged with implementing or enforcing any  
17   limitation or requirement that is challenged as a violation  
18   of a statutory right under this Act. The court shall hold  
19   unlawful and set aside the limitation or requirement if it  
20   is in violation of this Act.

21       (b) PRIVATE RIGHT OF ACTION.—

22           (1) IN GENERAL.—Any individual or entity, in-  
23   cluding any health care provider, aggrieved by an al-  
24   leged violation of this Act may commence a civil ac-  
25   tion for prospective injunctive relief against the gov-  
26   ernment official that is charged with implementing

1       or enforcing the limitation or requirement that is  
2       challenged as a violation of a statutory right under  
3       this Act. The court shall hold unlawful and set aside  
4       the limitation or requirement if it is in violation of  
5       this Act.

6                     (2) HEALTH CARE PROVIDER.—A health care  
7       provider may commence an action for prospective in-  
8       junctive relief on its own behalf and/or on behalf of  
9       the provider's patients who are or may be adversely  
10      affected by an alleged violation of this Act.

11                  (c) EQUITABLE RELIEF.—In any action under this  
12     section, the court may award appropriate equitable relief,  
13     including temporary, preliminary, or permanent injunctive  
14     relief.

15                  (d) COSTS.—In any action under this section, the  
16     court shall award costs of litigation, as well as reasonable  
17     attorney fees, to any prevailing plaintiff. A plaintiff shall  
18     not be liable to a defendant for costs in any non-frivolous  
19     action under this section.

20                  (e) JURISDICTION.—The district courts of the United  
21     States shall have jurisdiction over proceedings under this  
22     Act and shall exercise the same without regard to whether  
23     the party aggrieved shall have exhausted any administra-  
24     tive or other remedies that may be provided for by law.

1       (f) ABROGATION OF STATE IMMUNITY.—A State  
2 shall not be immune under the Eleventh Amendment to  
3 the Constitution of the United States from an action in  
4 Federal or State court of competent jurisdiction for a vio-  
5 lation of this Act. In any action against a State for a viola-  
6 tion of the requirements of this Act, remedies (including  
7 remedies both at law and in equity) are available for such  
8 a violation to the same extent as such remedies are avail-  
9 able for such a violation in an action against any public  
10 or private entity other than a State.

11 **SEC. 9. SEVERABILITY.**

12       If any provision of this Act, or the application of such  
13 provision to any person, entity, government, or cir-  
14 cumstance, is held to be unconstitutional, the remainder  
15 of this Act, or the application of such provision to all other  
16 persons, entities, governments, or circumstances, shall not  
17 be affected thereby.

